



**United States
Department of
Agriculture**

Food and
Nutrition
Service

3101 Park
Center Drive
Alexandria, VA
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April 3, 2002

SUBJECT: Granting Exemptions to the Lunch Period

TO: Regional Directors
Special Nutrition Programs
All Regions

Over the past few years, FNS has received a number of requests for exemptions to 7 CFR 210.10(f)(1). That provision states: "Schools must offer lunches between 10:00 a.m. and 2:00 p.m. Schools may request an exemption from these times only from FNS." These requests have provided FNS with a better understanding of the status of situations where an exemption would be appropriate. In addition, these requests have enabled FNS to make adjustments to the exemption criteria so that it can now pass the authority to grant these exemptions to the State agencies. To effect this change, the memorandum issued December 17, 1992, which assigned the authority to grant exemptions to FNS regional offices, is rescinded.

State agencies must evaluate the circumstances of each exemption request and establish that the situation meets one of the following two standards:

- **Standard 1:** State agencies may grant reasonable variances from the meal service requirements to accommodate special circumstances encountered in schools operating for traditional students at traditional times. For example, if a school has a legitimate need to extend the lunch service hours to 2:30 p.m. due to capacity concerns or because of extended school hours, such an exception would be considered a special circumstance and would be allowable with State agency approval.
- **Standard 2:** State agencies may grant exemptions from the meal service requirements if the school in question operates for traditional students, but at a non-traditional time. FNS has approved exemptions contingent upon the understanding that (a) these alternative programs provide students of high school grade or under an opportunity to obtain the minimum requirements needed for graduation at a non-traditional time, and (b) it is not possible to serve lunch at a more traditional time. For example, some work-study programs allow high school students to work in the morning or afternoon hours and attend high school classes in the late afternoon/evening.

Before approving any exemption, State agencies should determine whether the authority provided in FNS Instruction 786-8, Rev. 1, Reimbursement for Off-Site Meal Consumption would provide sufficient flexibility that would obviate the need for an exemption.

It is not necessary for the school food authority to seek approval each year if the conditions upon which approval was initially granted remain unchanged. However, if the conditions upon which approval was initially granted change, the exemption should be re-examined. In addition, if the special circumstances, such as overcrowding, have a prospective known ending date, e.g., the planned building of an additional school, it is recommended that the exemption be granted for a specified finite calendar period. The State agency also should consider a specified finite calendar period if it has directed the school food authority to develop an alternative to serving lunch prior to 10:00 a.m. or later than 2:00 p.m.

FNS Instruction 776-7, Rev. 1, Eligibility of Schools and Institutions to Participate in School Nutrition Programs, allows persons enrolled in GED programs or regular high school completion programs which operate during regular school hours in an eligible school to participate in the meal service. Please remind your State agencies that under no circumstances can evening meals served to students in adult education courses or in delayed diploma programs be reimbursable.

State agencies exercising this authority must maintain records of all exemption approvals including a list of all approved sites, and denials. The State agency must make these records available for three years for review by FNS.

Please feel free to contact Mary Jane Whitney at (703) 305-2590 if you have any questions regarding implementation of the exemption authority.

A handwritten signature in dark ink, appearing to read "Stanley C. Garnett". The signature is fluid and cursive, with the first name "Stanley" being more prominent than the last name "Garnett".

STANLEY C. GARNETT
Director
Child Nutrition Division